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## HOUSE CONCURRENT RESOLUTION

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AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAHAINA, MAUI FOR SEAWALL ENCROACHMENT PURPOSES AND AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT FOR THE RIGHT, PRIVILEGE, AND AUTHORITY TO USE, MAINTAIN, REPAIR, AND REPLACE AN EXISTING SEAWALL OVER, UNDER, AND ACROSS STATE-OWNED LAND IN LAHAINA, MAUI.

1 WHEREAS, the Board of Land and Natural Resources approved  
2 the request of Paul D. Gossman, as trustee of the Paul D.  
3 Gossman Residence Trust Dated December 18, 2008, for a term,  
4 non-exclusive easement over a portion of state-owned land  
5 located in Lahaina, Maui, on August 9, 2013, under agenda item  
6 D-10; and

7  
8 WHEREAS, the seaward boundary of the Paul D. Gossman  
9 Residence Trust property fronts the ocean and a seawall  
10 straddles the seaward boundary of the Paul D. Gossman Residence  
11 Trust property and submerged public land, which is state owned  
12 and identified by tax key map number (2)4-5-003, seaward of  
13 parcel 026. A portion of the seawall encroaches into the state-  
14 owned submerged land; and

15  
16 WHEREAS, the area of the seawall comprising approximately  
17 two hundred sixty square feet has encroached on state-owned  
18 submerged land prior to 1974; and

19  
20 WHEREAS, the character of the use of the easement is the  
21 right, privilege, and authority to use, maintain, repair,  
22 replace, and remove the existing seawall over, under, and across  
23 state-owned land; and

24  
25 WHEREAS, the easement term is for fifty-five years in  
26 consideration for a one-time payment to be determined by  
27 independent appraisal establishing a fair market rent, subject



1 to review and approval by the Chairperson of the Board of Land  
2 and Natural Resources; and

3  
4 WHEREAS, in a separate matter, the Association of Apartment  
5 Owners of Lahaina Roads, a non-profit corporation, is planning  
6 to conduct minor repairs to the existing nonconforming seawall  
7 fronting the Lahaina Roads complex in Lahaina, Maui, tax key map  
8 number (2)4-5-013, seaward of 027, an area of approximately  
9 2,352 square feet; and

10  
11 WHEREAS, the Association of Apartment Owners of Lahaina  
12 Roads seeks a grant of a term, non-exclusive easement for the  
13 right, privilege, and authority to use, maintain, repair, and  
14 replace an existing seawall over, under, and across state-owned  
15 land in Lahaina, Maui; and

16  
17 WHEREAS, the Board of Land and Natural Resources approved  
18 the request of the Association of Apartment Owners of Lahaina  
19 Roads of a term, non-exclusive easement for a portion of state-  
20 owned land located in Lahaina, Maui, on July 27, 2012, under  
21 agenda item D-3; and

22  
23 WHEREAS, a site plan approval was submitted to the Office  
24 of Conservation and Coastal Lands for review and approval; and

25  
26 WHEREAS, the Office of Conservation and Coastal Lands has  
27 determined that the issuance of an easement for the  
28 encroachments would have no adverse impacts on beach and  
29 recreational resources and does not act as a detriment to public  
30 access, and that no after-the-fact conservation use permit is  
31 required to cure the encroachment; and

32  
33 WHEREAS, the Office of Conservation and Coastal Lands is in  
34 support of the easement, which is required for the use of public  
35 lands for the area that the encroachment encumbers; and

36  
37 WHEREAS, the staff at the Department of Land and Natural  
38 Resources believes that the easement involves an encroachment  
39 onto a portion of submerged lands and fast lands which may  
40 impact the value pursuant to section 171-53(b), Hawaii Revised  
41 Statutes, and require prior approval of the Governor and the  
42 prior authorization of the Legislature by concurrent resolution,  
43 pursuant to section 171-53(c), Hawaii Revised Statutes; and



1 WHEREAS, at a meeting of the Board of Land and Natural  
2 Resources on July 27, 2012, the Board imposed a fine of \$500 for  
3 illegal encroachment and assessed a penalty for administrative  
4 costs of \$200 for staff time incurred in resolving the matter;  
5 and  
6

7 WHEREAS, pursuant to section 171-53(c), Hawaii Revised  
8 Statutes, the Board of Land and Natural Resources, with the  
9 approval of the Governor and the prior authorization of the  
10 Legislature by concurrent resolution, may lease state submerged  
11 lands and lands beneath tidal waves; now, therefore,  
12

13 BE IT RESOLVED by the House of the Twenty-eighth  
14 Legislature of the State of Hawaii, Regular Session of 2015, the  
15 Senate concurring, that the fifty-five year term for a non-  
16 exclusive easement to Paul D. Gossman as trustee of the Paul D.  
17 Gossman Residence Trust Dated December 18, 2008, for seawall  
18 encroachment purposes, is authorized by the Legislature, subject  
19 to confirmation by survey of the Department of Accounting and  
20 General Services, according to the terms and conditions approved  
21 by the Board of Land and Natural Resources on August 9, 2013;  
22 and  
23

24 BE IT FURTHER RESOLVED that the issuance of a term,  
25 non-exclusive easement for the right, privilege, and authority  
26 to use, maintain, repair, and replace an existing seawall over,  
27 under, and across state-owned land, tax key map number (2)4-5-  
28 013, seaward of 027, an area of approximately 2,352 square feet,  
29 in Lahaina, to the Association of Apartment Owners of Lahaina  
30 Roads is authorized by the Legislature, subject to confirmation  
31 by survey of the Department of Accounting and General Services,  
32 according to the terms and conditions approved by the Board of  
33 Land and Natural Resources on July 27, 2012; and  
34

35 BE IT FURTHER RESOLVED that certified copies of this  
36 Concurrent Resolution be transmitted to the Governor and  
37 Chairperson of the Board of Land and Natural Resources.

